

DENTAL BOARD OF CALIFORNIA

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Protection of the public shall be the highest priority for the Dental Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

— Business and Professions Code § 1601.2

The Dental Board of California (DBC) is a consumer protection agency within the state Department of Consumer Affairs (DCA). DBC is charged with enforcing the Dental Practice Act, Business and Professions Code section 1600 *et seq.* The Board's regulations are located in Division 10, Title 16 of the California Code of Regulations (CCR).

DBC licenses and regulates dentists (DDS/DMD), and issues specialty permits for a variety of functions to licensed dentists who qualify for them, including permits to administer general anesthesia, conscious sedation, oral conscious sedation for adult patients, and oral conscious sedation for minor patients. Under Business and Professions Code section 1638, DBC also issues oral and maxillofacial surgery (OMS) permits to qualified dentists and physicians; OMS dentists may seek an additional permit and be authorized to perform elective facial cosmetic surgery under section 1638.1. DBC also licenses registered dental assistants (RDA) and registered dental assistants in extended functions (RDAEF); additionally it issues permits to unlicensed individuals who qualify as orthodontic assistants and dental sedation assistants. Although DBC previously regulated

registered dental hygienists (RDH), registered dental hygienists in extended functions (RDHEF), and registered dental hygienists in alternative practice (RDHAP), much of that regulatory authority transferred from DBC to the Dental Hygiene Committee of California (DHCC), effective July 1, 2009.

DBC is authorized to establish standards for its approval of dental schools and dental assistant training programs; prescribe the subjects in which its licensees should be examined; license applicants who successfully pass the examinations required by the Board; set standards for dental practice; and enforce those standards by taking disciplinary action against licensees as appropriate. DBC is also responsible for registering dental practices (including mobile dental clinics) and corporations; establishing guidelines for continuing education requirements for dentists and dental assistants; approving radiation safety courses; and administering the Diversion Program for substance-abusing dentists and dental assistants.

DBC consists of fifteen members: eight practicing dentists, one RDH, one RDA, and five public members. Business and Professions Code section 1602 requires all of the professional members of the Board to have been actively practicing for at least five years prior to their appointment. The Governor appoints thirteen of the Board's fifteen members (including all of the dental practitioners); the Senate Rules Committee and the Assembly Speaker each appoint one public member.

To assist DBC in regulating RDAs and RDAEFs, the legislature has created the Dental Assisting Council (DAC) in Business and Professions Code section 1742. The DAC consists of seven members: the RDA member of the Board, one other Board member, and

five RDAs, appointed by the Board, who represent a broad range of dental assisting experience and education (including at least one RDAEF). The DAC is authorized to “consider all matters relating to dental assistants in this state, on its own initiative or upon the request of the Board, and make appropriate recommendations” in the following areas: requirements for dental assistant examination, licensure, permitting, and renewal; standards and criteria for approval of dental assisting educational programs, courses, and continuing education; allowable dental assistant duties, settings, and supervision levels; appropriate standards of conduct and enforcement for dental assistants; and requirements regarding infection control.

On February 27, 2018, Governor Brown [reappointed](#) licensee member Dr. Steven Morrow. Dr. Morrow has served on the Board since 2010, and currently serves as the associate dean for advanced dental education at the Loma Linda University School of Dentistry.

On April 13, 2018, Governor Brown [appointed](#) Joanne Pacheco, of Fresno California, to serve as the Board’s RDH member. Pacheco is the Director of the Dental Hygiene Program at Fresno City College. She has been an RDH since 1985 and was previously a registered dental assistant.

Also, on April 13, Governor Brown appointed Dr. James Yu, of Fremont, as a licensed member of the Board. Dr. Yu maintains his own dental practice in San Francisco, where he is also an acupuncturist.

MAJOR PROJECTS

DBC Continues Analysis of Licensure Exams

At the Board's November 3, 2017 [meeting](#), Board member, Dr. Huong Le reiterated the upcoming changes to the Western Regional Exam Board (WREB) exam that she previously reported on at the Board's August 2017 [meeting](#). [[23:1 CRLR 6](#)] Dr. Le, as well as WREB representatives, explained the exam changes to the Board and addressed any concerns. As of January 2018, the WREB exam now consists of one required operative procedure instead of two. According to Dr. Le, WREB representatives enacted this change to reduce redundant examinations, so long as the candidate passed his or her first operative procedure with a passing score of 3 or higher (75%). Dr. Morrow voiced his concern, pointing out that the new version of the exam differs from the one the Board initially approved, and questioned how the modifications would impact applicants applying for licensure in California given the current statutory framework. Executive Director Fischer responded that the answer to Dr. Morrow's question is currently unknown, and reported that the Board is currently undergoing an occupational analysis of the practice of dentistry with the Office of Professional Exam Services (OPES) at DCA. Once that is complete, the WREB exam will be re-evaluated after Sunset Review next year to clarify any concerns.

At the Board's November 2017 and February 2018 meetings, Executive Director Fischer discussed the Board's efforts to implement [AB 2331 \(Dababneh\) \(Chapter 572, Statutes of 2016\)](#), which requires DBC to accept the American Board of Dental Examiners (ADEX) exam as an official pathway to licensure. Ms. Fischer reported that prior to recognition or acceptance of the ADEX exam, the exam itself must also undergo an

occupational analysis and a psychometric evaluation to determine compliance with the requirements of Business and Professions Code section 139. To accomplish this, the Board has contracted with OPES to conduct an occupational analysis of the dental profession and review the ADEX examination. Ms. Fischer advised the Board that OPES review of the ADEX examination is anticipated to begin in July 2018 and be completed in early 2019.

At its [February 8, 2018](#) meeting, DBC discussed the continuing effort to combine the RDA law and ethics exams. [[23:1 CRLR 6](#)] Board staff held exam construction workshops in October, December, and January, along with OPES, to construct new test items. Board staff also reported that they are currently working with DCA to implement the new exam into [BreEZe](#). Board staff [anticipates](#) that newly combined examination will be launched in May 2018.

Also, at the February meeting, Board staff [reported](#) that after the [2016 Occupational Analysis of the Registered Dental Assistant Profession](#), OPES completed a comprehensive review of the RDAEF Clinical and Practical Examinations to determine whether the Board's RDAEF Clinical and Practical Examinations meet professional guidelines and technical standards. After observations made in October 2017 at multiple exam locations, OPES determined that the test was still valid and recommended a few minor changes including enhanced examiner training. Board staff reported that they will be working with OPES and RDAEF examiners to make the suggested changes.

Portfolio Pathway to Licensure

At DBC's November 3, 2017 [meeting](#), Licensing Analyst, Mr. Daniel Yoon, stated that staff, along with Board members Dr. Le and Dr. Morrow, met with the six California

dental schools to discuss and receive feedback regarding the Board's [Portfolio Pathway to Licensure Program](#). The Portfolio Examination is an alternative examination that each individual dental school may elect to implement at any time, and uses both clinical experience and clinical competency examinations to assess a candidate. Mr. Yoon highlighted the [five major issues](#) that the schools identified as an obstacle to utilizing the Portfolio Pathway. Utilizing the dental schools' suggestions, the Board's Examination Committee created short-term and long-term goals to increase the use of the Portfolio Pathway to licensure. In the short term, the Board hopes to (1) clarify language that seems ambiguous, including the use of emergency-care patients for other parts of competency exams and using the same or different patients for competency exams; (2) digitize Portfolio rubrics and grading sheets; (3) expedite Portfolio applications; (4) conduct public outreach to schools; (5) research reciprocity (Licensure by Credential) requirements for other state dental boards; and (6) inform the public about Portfolio through the Board's website. In the long term, the Board hopes to work on (1) Portfolio's portability, by talking to other state boards; (2) legislative writing, by changing or eliminating certain factors or portions of different competency exams and; (3) overall simplification of the Portfolio process.

Additionally, at the November 3, 2017 meeting, Mrs. Fischer stated that this pathway to licensure will have to undergo a re-evaluation after the occupational analysis of dentistry and Sunset Review are complete next year to confirm the validity of this pathway to licensure.

Revisiting the Rulemaking Process

At its November 2017 and February 2018 meetings, DBC discussed nine proposals to amend its regulations; however, at this writing, the Board has not noticed any of these proposed regulations to the public. According to Ms. Fischer, much of the delay is due to DCA's recent revisions to its internal rulemaking review procedures. Up until recently, DCA waived several review procedures that Boards must complete before publicly noticing proposed regulations. Now that DCA is no longer waiving this review, the rulemaking process will take an additional two to three months before proposed regulations are noticed to the public. This process now includes approval from several DCA staff before the Board submits the proposed regulations to OAL for notice.

The Board voted to move forward with rulemaking process for the following proposed regulations: (1) amendments to sections 1016 and 1017, Title 16 of the CCR, relating to continuing education requirements and basic life support equivalency standards; (2) amendments to Chapter 3, Division 10, Title 16 of the CCR, relating to dental assisting comprehensive rulemaking; (3) amend sections 1044.6, 1044.7, and 1044.8, Title 16 of the CCR, relating to elective facial cosmetic surgery permit application and renewal requirements; (4) amendments to section 1024.1, Title 16 of the CCR, relating to institutional standards; (5) amendments to section 1028.6, Title 16 of the CCR, relating to licensure by credential application requirements; and (6) amendments to section 1005, Title 16 of the CCR, relating to minimum standards for infection control as emergency rulemaking.

DBC also continued to discuss three proposed amendments and additions to its regulations brought up during the August 2017 meeting. These included: (1) amendments to sections 1023.2 and 1023.7, Title 16 of the CCR, relating to citations and fines; (2) adoption of section 1049, Title 16 of the CCR, relating to mobile and portable dental units; and (3) adoption of section 1071.1, Title 16 of the CCR, relating to the implementation of additional duties of RDAEFs as specified in Business and Professions Code section 1753.55 (determination of radiographs and placement of interim therapeutic restorations).
[See [23:1 CRLR 9](#)]

LEGISLATION

[AB 2643 \(Irwin\)](#), as introduced February 15, 2018, would amend section 1682 of the Business and Professions Code to revise the specific language that must be included on the written informed consent that a minor’s parent or guardian must receive and approve prior to the administration of general anesthesia or conscious sedation during a dental procedure. Specifically, the bill would add the phrase “including nonsurgical treatment options” after the existing language encouraging parents to “explore all options available for your child’s anesthesia for his or her dental treatment.” This bill is a response to the ongoing conversation about the use of sedation with minors that started after a tragedy in which an otherwise healthy child died while under sedation. [See [23:1 CRLR 7](#)] [*A. Health*]

[SB 1491 \(S. BP&ED\)](#), as amended April 2, 2018 as it pertains to DBC, is an omnibus bill that would amend several sections of the Dental Practice Act in non-substantive, non-controversial, or minor ways. Of note, this bill would amend section 1611 of the Business and Professions Code to clarify that licensing and permitting examinations

administered regional or national testing entities designated to administer licensing or permitting examinations are also appropriate prerequisites to licensing in addition to those exams administered by the Board. The bill would also amend section 1615 to remove language pertaining to the Board secretary's entitlement to expenses incurred in the performance of his or her duties. The bill would also amend section 1621 to exempt portfolio examiners of the statutory licensure exam from holding a position at a school that provides instruction on the same licensure category as the examiner. The bill would also amend section 1645 to clarify that continuing education relevant to new developments in the practice of dentistry is required in the two years prior to license renewal as specified by board regulations. Other non-substantive changes include adding references to "dental assisting" and "dental assistants" to provisions of the Dental Practice Act to ensure consistency, and removing obsolete language in the Dental Practice Act. These changes were discussed and requested by the Board at its November board meeting. At its November meeting, the Board voted to support this bill. [S. BP&ED]

[SB 1482 \(Hill\)](#), as introduced February 16, 2018, pertaining to the Dental Hygiene Committee of California (DHCC), would amend section 1917 of the Business and Professions Code to regulate a RDH applicant to have completed the WREB's dental hygiene examination or any other clinical or dental hygiene exam approved by the DHCC within five years of applying for RDH licensure. The bill would also amend section 1944 to limit fees for site visits to educational programs for RDHs, RDHAPs, or RDHEFs to the actual cost incurred by the committee for cost recovery of site visit expenditures. This amendment would also limit the fee for a retired license to one-half of the current license

renewal fee. Finally, the bill would add section 1941.5 to authorize DHCC to conduct periodic surveys, evaluations, and announced and unannounced site visits to continuing education progress for RDH, RDHAP, and RDAEF licenses, to ensure continued compliance with DHCC CODA standards. The amendments addressed in this bill arose from DHCC concerns during its Sunset Review in 2017. *[S. BP&ED]*

[**SB 641 \(Lara\)**](#), as amended April 20, 2017, is a two-year bill relating to the release of Controlled Substance Utilization Review and Evaluation System (CURES) information to law enforcement agencies. This bill would amend section 11165 of the Health and Safety Code, to require a warrant based on probable cause for the release of CURES information to a law enforcement agency engaged in a criminal investigation instead of simply requiring a valid court order. This bill would affect DBC as dentists are authorized prescribers of controlled substances, and utilize CURES. This bill has not been amended during the current reporting period. *[A. PubSafe]*

[**AB 224 \(Thurmond\)**](#), as amended May 30, 2017; [**SB 501 \(Glazer\)**](#), as amended May 1, 2017; and [**SB 392 \(Bates\)**](#), as amended May 26, 2017, are all two-year bills addressing adult and pediatric dental anesthesia. While these bills remain greatly controversial, none of these bills have been amended or moved during this reporting period.

[See [23:1 CRLR 7-8](#)] [AB 224: S. BP&ED; SB 501: A. Appr; SB 392: A. B&P]

[**AB 2138 \(Chiu and Low\)**](#), as amended April 2, 2018, would amend various sections of the Business and Professions Code relating to professional licensure applicants with criminal records. Of note, the bill would limit the circumstances under which DCA boards may deny professional licensure to individuals who have previously been convicted

of crimes; require DCA boards to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession a board regulates; develop procedures when requesting or taking disciplinary action based on an applicant's criminal history; and require boards to annually report specified de-identified information relating to Board action pertaining to applicants with criminal convictions, including the number of licensees who were affected, whether they provided evidence of rehabilitation or mitigation; whether they appealed; the final disposition; and the voluntarily provided information on race or gender of any applicant.

The bill is sponsored by a coalition of criminal justice advocacy groups who note that California has among the highest recidivism rates in the nation, and one of the root causes of the high recidivism is the inability of prior offenders to secure gainful employment upon reentry. According to the authors, “[a]ll too often, qualified people are denied occupational licenses or have licenses revoked or suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed. Alleviating barriers to occupational licensing is just one way California can reduce recidivism and provide economic opportunity to all its residents.” [A. B&P]

RECENT MEETINGS

At its November 3, 2017 meeting, DBC elected Thomas Stewart, DDS as Board President; public member Fran Burton as Board Vice President; and public member Yvette Chappell-Ingram as Board Secretary.

Also, at the November meeting, Assistant Executive Officer, Sarah Wallace, reported that DBC's fee increase was implemented into BreEZe on [October 19, 2017](#), and the Board began collecting the new revenue for applications, licensures, and permits. Board staff reported that an alert and [fee chart](#) was posted on the Board's website and an email blast was sent out to notify its licensees of the implementation. [See [23:1 CRLR 3-4](#)]

At the Board's February 2018 meeting, in response to Dr. Morrow's and the California Dental Association's concerns expressed at the November meeting, the Board discussed the Application for Licensure by Residency fee, specifically the reasons why it was higher than other licensure pathways. The Board directed staff to research this issue and discuss it again at a later date.

Also, at the February meeting, Executive Officer Fischer gave a report on DHCC's sunset review proceedings. Ms. Fischer reported that during DHCC's November 2017 meeting, members discussed the Committee's draft sunset review report and approved it for submittal to the legislature by December 1, 2017. Some of the prior and new issues the report addresses include: (1) name change to the Dental Hygiene Board of California; (2) additional staff to be utilized for continuing education review, licensing, enforcement, and educational programs; (3) additional office space; (4) remove practice restrictions for dental hygienists working without supervision in public health setting; (5) remove the prescription requirement for the RDHAP; (6) provide statutory language for the DHCC to place dental hygiene programs on probation and/or cite and fine educational programs that are in violation of the state law, CODA accreditation standards, and/or infection control regulations; (7) provide authority to repeal Business and Professions Code sections 1966-

1966.6 relating to a Diversion Program for licensees needing rehabilitation due to alcohol or substance misuse; (8) payment for services rendered; and (9) alternative licensure options.

During the February 2018 meeting, Board staff reported that DBC's Sunset Review Report to the legislature is due by the end of 2018; staff has started the process of compiling data for the report and all remaining Board meetings in 2018 will address Sunset Review issues and the completion of the Report.